

الْبَابُ الثَّانِي

حِفْظُ نَفُوسٍ غَيْرِ الْمُسْلِمِينَ وَأَعْرَاضِهِمْ وَأَمْوَالِهِمْ
مِنْ أَعْظَمِ الْفَرَائِضِ

CHAPTER TWO

THE PROTECTION OF LIFE, PROPERTY
AND HONOUR OF NON-MUSLIMS IS
AMONGST THE SUPREME DUTIES OF
ISLAM

QUR'AN

١. ﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ﴾

1. *﴿O believers! Retribution (the law of equality in punishment) is prescribed for you in the case of those who are unjustly slain.﴾¹*

٢. ﴿وَلَكُمْ فِي الْقِصَاصِ حَيَوةٌ يَا أُولِيَ الْأَلْبَابِ لَعَلَّكُمْ تَتَّقُونَ﴾

2. *﴿And there is a (guarantee of) life for you in retribution (i.e., vengeance of murder), O wise people, so that you may guard (against bloodshed and destruction).﴾²*

٣. ﴿وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْلُوا بِهَا إِلَى الْحُكَّامِ

لِتَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ﴾

3. *﴿And do not eat up one another's wealth amongst yourselves through injustice, nor take wealth to the authorities (as a bribe) so that, this way, you may (also) swallow a portion of others' wealth unfairly, whilst you are aware (that this is a sin).﴾³*

٤. ﴿وَكَتَبْنَا عَلَيْهِمْ فِيهَا أَنَّ النَّفْسَ بِالنَّفْسِ وَالْعَيْنَ بِالْعَيْنِ وَالْأَنْفَ

بِالْأَنْفِ وَالْأُذُنَ بِالْأُذُنِ وَالسِّنَّ بِالسِّنِّ وَالْجُرُوحَ قِصَاصٌ﴾

4. *﴿In that (the Torah) We had prescribed for them: a life for a life, an eye for an eye, a nose for a nose, an ear for an*

¹ Qur'an 2:178.

² Ibid., 2:179.

³ Ibid., 2:188.

ear, and a tooth for a tooth, and in the case of injuries (too) there is a requital. ﴿¹

٥. ﴿فَلَمَّا نَسُوا مَا ذُكِّرُوا بِهِ أَهَجَيْنَا الَّذِينَ يَنْهَوْنَ عَنِ السُّوءِ وَأَخَذْنَا الَّذِينَ ظَلَمُوا بِعَذَابٍ بَئِيسٍ بِمَا كَانُوا يَفْسُقُونَ﴾

5. *Then, when they forgot (all) they had been advised, We delivered those who were engaged in forbidding evil (i.e., performing the duty of preaching don'ts), and seized (the rest of) the people who committed injustice (actively or passively) with a very harsh punishment because they were disobeying. ﴿²*

٦. ﴿وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ وَمَنْ قُتِلَ مَظْلُومًا فَقَدْ جَعَلْنَا لَوْلِيٍّ سُلْطَانًا فَلَا يُسْرِفُ فِي الْقَتْلِ إِنَّهُ كَانَ مَنْصُورًا﴾

6. *And do not kill any soul whose (killing) Allah has declared unlawful unless (killing him) is just (according to the law and decree of the court). But whoever is killed unjustly, We have indeed given his heir the right (of retribution according to the legal procedure), but he too must not exceed the limits in (retributive) killing. He is indeed helped (by Allah. The responsibility of his legal help and support will be on the government.) ﴿³*

HADITH

١/٥. عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ ﷺ قَالَ: مَنْ قَتَلَ مُعَاهِدًا لَمْ يَرِحْ رَائِحَةَ الْجَنَّةِ، وَإِنَّ رِيحَهَا تَوْجَدُ مِنْ مَسِيرَةِ أَرْبَعِينَ عَامًا.
رَوَاهُ الْبُخَارِيُّ وَابْنُ مَاجَهَ وَالْبَزَّازُ.

¹ Ibid., 5:45.

² Ibid., 7:165.

³ Ibid., 17:33.

5/1. 'Abd Allāh b. 'Amr رضي الله عنه related that the Prophet ﷺ said:

"Anyone who kills a non-Muslim under treaty [*mu'āhad*] will not smell the fragrance of Paradise, even though its fragrance can be smelt at a distance of forty years."¹

Reported by al-Bukhārī, Ibn Mājah and al-Bazzār.

٢ / ٦ . وَفِي رِوَايَةٍ عَنْهُ، قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: مَنْ قَتَلَ قَتِيلًا مِنْ أَهْلِ الذِّمَّةِ لَمْ يَجِدْ رِيحَ الْجَنَّةِ، وَإِنْ رِيحُهَا لَيُوجَدُ مِنْ مَسِيرَةِ أَرْبَعِينَ عَامًا.

رَوَاهُ أَحْمَدُ وَالنَّسَائِيُّ وَاللَّفْظُ لَهُ، وَالْبَزَّازُ وَابْنُ الْجَارُودِ وَالْحَاكِمُ
وَالْبَيْهَقِيُّ وَذَكَرَهُ الْمُنْذِرِيُّ فِي التَّرْغِيبِ وَالتَّرْهِيْبِ. وَقَالَ الْحَاكِمُ: هَذَا
حَدِيثٌ صَحِيحٌ.

6/2. 'Abd Allāh b. 'Amr رضي الله عنه related that Allah's Messenger ﷺ said:

"Anyone who kills a non-Muslim citizen will not smell the fragrance of Paradise, while its fragrance can be smelt at a distance of forty years."²

Reported by Aḥmad, al-Nasā'ī (the wording is his), al-Bazzār, Ibn al-Jārūd, al-Ḥākim, al-Bayhaqī and cited by al-Mundhirī in *al-Tarḡhib wa al-tarḥīb*. According to al-Ḥākim: "This is an authentic tradition."

¹ Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-jizya* [The Book of Annual Security Tax for Non-Muslims Living in an Islamic State], chapter: "The Sin of Someone Who Kills a Non-Muslim Citizen without his having Committed a Crime," 3:1155 §2995; and in *Kitāb al-Diyāt* [The Book of Blood Money], chapter: "The Sin Of Someone Who Kills a Soul Without His Having Committed A Crime," 6:2533 §6516. •Ibn Mājah in *al-Sunan: Kitāb al-diyāt* [The Book of Blood Money], chapter: "Someone Who Kills a Non-Muslim Citizen," 2:896 §2686. •al-Bazzār in *al-Musnad*, 6:368 §2383.

² Set forth by •al-Nasā'ī in *al-Sunan: Kitāb al-qasāma* [The Book of Taking an Oath], chapter: "The Gravity of Killing a Non-Muslim Citizen," 8:25 §4750; and in *al-Sunan al-Kubrā*, 4:221 §6952. •Aḥmad b. Ḥanbal in *al-Musnad*, 2:186 §6745. •al-Bazzār in *al-Musnad*, 6:361 §3273. •al-Ḥākim in *al-Mustadrak*, 2:137 §2580. •Ibn al-Jārūd in *al-Muntaqā*, 1:212 §834. •al-Bayhaqī in *al-Sunan al-kubrā*, 8:133 §16260.

٣/٧. وَفِي رِوَايَةِ أَبِي هُرَيْرَةَ رضي الله عنه عَنِ النَّبِيِّ ﷺ قَالَ: أَلَا مَنْ قَتَلَ نَفْسًا مُعَاهِدًا لَهُ ذِمَّةُ اللَّهِ وَذِمَّةُ رَسُولِهِ، فَقَدْ أَخْفَرَ بِذِمَّةِ اللَّهِ، فَلَا يُرِحُ رَائِحَةَ الْجَنَّةِ، وَإِنْ رِيحُهَا لَيُوجَدُ مِنْ مَسِيرَةِ سَبْعِينَ خَرِيفًا.

رَوَاهُ التِّرْمِذِيُّ وَابْنُ مَاجَهَ وَأَبُو يَعْلَى وَالْحَاكِمُ وَالْبَيْهَقِيُّ. وَقَالَ التِّرْمِذِيُّ: حَدِيثُ أَبِي هُرَيْرَةَ رضي الله عنه حَدِيثٌ حَسَنٌ صَحِيحٌ.

7/3. Abū Hurayra رضي الله عنه related that the Prophet ﷺ said:

"Listen! Anyone who kills a non-Muslim citizen who is under the protection of Allah and His Messenger violates the protection of Allah; he will not smell the fragrance of Paradise, while its fragrance reaches out as far as a distance of seventy years."¹

Reported by al-Tirmidhī, Ibn Mājah, Abū Ya'la, al-ākim and al-Bayhaqī. According to al-Tirmidhī: "The tradition reported by Abū Hurayra رضي الله عنه is an authentic tradition."

٤/٨. وَفِي رِوَايَةِ الْقَاسِمِ بْنِ مُحْيِمِرَةَ عَنْ رَجُلٍ مِنْ أَصْحَابِ النَّبِيِّ ﷺ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: مَنْ قَتَلَ رَجُلًا مِنْ أَهْلِ الذِّمَّةِ لَمْ يَجِدْ رِيحَ الْجَنَّةِ وَإِنْ رِيحُهَا لَيُوجَدُ مِنْ مَسِيرَةِ سَبْعِينَ عَامًا.

رَوَاهُ أَحْمَدُ وَالنَّسَائِيُّ وَاللَّفْظُ لَهُ.

8/4. Qāsim b. Mukhaymira reported that he heard from a noble Companion of the Messenger of Allah ﷺ, who said:

"Anyone who kills a non-Muslim citizen under protection will not smell the fragrance of Paradise, even though its fragrance can be

¹ Set forth by •al-Tirmidhī in *al-Sunan: Kitāb al-diyāt* [The Book of Blood Money], chapter: "What has Come to us Concerning Someone Who Kills a Non-Muslim Citizen," 4:20 §1403. •Ibn Mājah in *al-Sunan: Kitāb al-diyāt* [The Book of Blood Money], chapter: "Someone Who Kills a Non-Muslim Citizen," 2:896 §2687. •Abū Ya'la in *al-Musnad*, 11:335 §6452. •al-ākim in *al-Mustadrak*, 2:138 §2581. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:205 §18511.

smelt at a distance of seventy years.”¹

Reported by Aḥmad and al-Nasā’ī and the wording is his.

٥/٩. وَفِي رِوَايَةِ أَبِي بَكْرَةَ، قَالَ: قَالَ النَّبِيُّ ﷺ مَنْ قَتَلَ نَفْسًا مُعَاهِدَةً بِغَيْرِ حِلِّهَا فَحَرَامٌ عَلَيْهِ الْجَنَّةُ أَنْ يَشُمَّ رِيحَهَا وَإِنْ رِيحُهَا لَيُوجَدُ مِنْ مَسِيرَةِ مِئَةِ عَامٍ.
رَوَاهُ النَّسَائِيُّ وَعَبْدُ الرَّزَّاقِ وَابْنُ حِبَّانَ وَالْبَزَّازُ وَالطَّبْرَانِيُّ.

9/5. Abū Bakra رضي الله عنه related that the Prophet ﷺ said:

“Anyone who unjustly kills a non-Muslim under treaty [*mu‘āhad*] will be forbidden to smell the fragrance of Paradise, even though its fragrance can be smelt at a distance of a hundred years.”²

Reported by al-Nasā’ī, ‘Abd al-Razzāq, Ibn Ḥibbān, al-Bazzār and al-Ṭabarānī.

٦/١٠. وَفِي رِوَايَةٍ عَنْهُ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: مَنْ قَتَلَ نَفْسًا مُعَاهِدَةً بِغَيْرِ حَقِّهَا لَمْ يَجِدْ رَائِحَةَ الْجَنَّةِ وَإِنْ رَائِحَتُهَا تُوْجَدُ مِنْ مَسِيرَةِ خَمْسِمِائَةِ عَامٍ.
رَوَاهُ الْحَاكِمُ وَقَالَ: هَذَا حَدِيثٌ صَحِيحٌ عَلَى شَرْطِ مُسْلِمٍ.

10/6. Abū Bakra رضي الله عنه also related that Allah’s Messenger ﷺ said:

“Anyone who unjustly kills a non-Muslim under treaty will not approach the fragrance of Paradise, even though its fragrance can be smelt at a distance of five hundred years.”³

¹ Set forth by •Aḥmad b. anbal in *al-Musnad*, 4:237, 5:369 §§18097, 177. •al-Nasā’ī in *al-Sunan: Kitāb al-qasāma* [The Book of Taking an Oath], chapter: “The Enormity of Murdering a Non-Muslim Citizen,” 8:25 §4749; and in *al-Sunan al-kubrā*, 4:221 §6951. Cited by •al-Mundhirī in *al-Tarḡhib wa al-Tarhīb*, 3:204 §3695.

² Set forth by •al-Nasā’ī in *al-Sunan: Kitāb al-qasāma* [The Book of Taking an Oath], chapter: “The Enormity of Murdering a Non-Muslim Citizen,” 8:25 §4748; and in *al-Sunan al-kubrā*, 4:221 §6950. •Abd al-Razzāq in *al-Muṣannaf*, 10:102 §18521. •Ibn ḥibbān in *al-Ṣaḥīḥ*, 16:391 §8382. •al-Bazzār in *al-Musnad*, 9:138 §3696. •al-Ṭabarānī in *al-Mu‘jam al-awsaṭ*, 1:207 §663.

³ Set forth by •al-ākīm in *al-Mustadrak ‘alā al-Ṣaḥīḥayn*, 1:105 §133.

Reported by al-Ḥākim. According to al-Ḥākim: "This is an authentic tradition in conformity with the stipulation of Muslim."

٧/١١. وَفِي رِوَايَةٍ عَنْهُ قَالَ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: مَنْ قَتَلَ نَفْسًا مُعَاهِدَةً بِغَيْرِ حَقِّهَا حَرَّمَ اللَّهُ عَلَيْهِ الْجَنَّةَ أَنْ يَشُمَّ رِيحَهَا وَرِيحَهَا يُرْجَدُ مِنْ مَسِيرَةِ خَمْسِمِائَةِ عَامٍ.

رَوَاهُ الْحَاكِمُ وَابْنُ أَبِي شَيْبَةَ.

11/7. Abū Bakra رضي الله عنه also related that he heard Allah's Messenger ﷺ say:

"Allah has forbidden the fragrance of Paradise to him who unjustly kills a non-Muslim, even though its fragrance will be available at a distance of five hundred years."¹

Reported by al-Ḥākim and Ibn Abī Shayba.

٨/١٢. عَنْ أَبِي بَكْرَةَ رضي الله عنه قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: مَنْ قَتَلَ مُعَاهِدًا فِي غَيْرِ كُنْهِهِ حَرَّمَ اللَّهُ عَلَيْهِ الْجَنَّةَ.

رَوَاهُ أَحْمَدُ وَأَبُو دَاوُدَ وَالتَّسَائِيُّ وَالدَّارِمِيُّ وَالْبَزَّازُ وَابْنُ أَبِي شَيْبَةَ،
وَالْحَاكِمُ. وَقَالَ الْحَاكِمُ: هَذَا حَدِيثٌ صَحِيحٌ الْإِسْنَادِ.

12/8. Abū Bakra رضي الله عنه also related that Allah's Messenger ﷺ said:

"Any Muslim who unjustly kills a non-Muslim with whom there is a peace treaty [*mu'āhad*], Allah will make Paradise forbidden for him."²

¹ Set forth by •al- ākim in *al-Mustadrak 'alā al-Ṣaḥīḥayn*, 1:105 §134. •Ibn Abī Shayba in *al-Muṣannaf*, 5:457 §27944.

² Set forth by •Aḥmad b. Ḥanbal in *al-Musnad*, 5:36-38 §§20393, 20419. •Abū Dāwūd in *al-Sunan: Kitāb al-jihād* [The Book of Struggle], chapter: "Fulfilling the Contract of a Non-Muslim Citizen and the Sanctity of His Contract," 3:83 §2760. •al-Nasā'ī in *al-Sunan: Kitāb al-qasāma* [The Book

Reported by Aḥmad, Abū Dāwūd, al-Nasā'ī, al-Dārimī, al-Bazzār, Ibn Abī Shayba and al-Ḥākim. Al-Ḥākim said: "This tradition has an authentic chain of transmission."

٩/١٣. وَفِي رِوَايَةٍ عَنْهُ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: مَنْ قَتَلَ نَفْسًا مُعَاهِدَةً بِغَيْرِ حِلِّهَا (وَفِي رِوَايَةٍ بِغَيْرِ حَقِّهَا) حَرَّمَ اللَّهُ عَلَيْهِ الْجَنَّةَ أَنْ يَجِدَ رِيحَهَا.
رَوَاهُ أَحْمَدُ وَالْحَاكِمُ.

13/9. Abū Bakra رضي الله عنه also related that Allah's Messenger ﷺ said:
"Any Muslim who unlawfully kills a non-Muslim (in one tradition, "unjustly" is reported), Allah has forbidden even the fragrance of Paradise to him."¹

Reported by Aḥmad and al-Hakim.

قَالَ الْكَاشِمِيرِيُّ فِي شَرْحِ هَذَا الْحَدِيثِ:
قَوْلُهُ ﷺ: "مَنْ قَتَلَ مُعَاهِدًا لَمْ يَرِحْ رَائِحَةَ الْجَنَّةِ" وَمُنْجُ الْحَدِيثِ:
إِنَّكَ أَيُّهَا الْمُخَاطَبُ، قَدْ عَلِمْتَ مَا فِي قَتْلِ الْمُسْلِمِ مِنَ الْإِثْمِ، فَإِنَّ
شَاعَتَهُ بَلَغَتْ مَبْلَغَ الْكُفْرِ، حَيْثُ أَوْجَبَ التَّخْلِيدَ. أَمَّا قَتْلُ مُعَاهِدٍ، فَأَيْضًا
لَيْسَ بِهِيْنِ، فَإِنَّ قَاتِلَهُ أَيْضًا لَا يَجِدُ رَائِحَةَ الْجَنَّةِ.

Commenting on this hadith—*anyone who kills a non-Muslim citizen will not smell the fragrance of Paradise*—
Anwar Shāh Kāshmirī writes in his book *Fayḍ al-Bārī*:

of Taking an Oath], chapter: "The Gravity of Killing a Non-Muslim Citizens," 8:24 §4747; and in *al-Sunan al-kubrā*, 4:221, §6949. •al-Dārimī in *al-Sunan*, 2:308 §2504. •al-Bazzār in *al-Musnad*, 9:129 §3679. •Ibn Abī Shayba in *al-Muṣannaf*, 5:457 §27946. •al-Ḥākim in *al-Mustadrak*, 2:154 §2631. •al-Ṭabarānī in *al-Muʿjam al-awsaṭ*, 8:76 §8011. •Ibn al-Jārūd in *al-Muntaqā*, 1:213 §835. •al-Ṭayālīsī in *al-Musnad*, 1:118 §879. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:231 §18629.

¹ Set forth by •Aḥmad b. anbal in *al-Musnad*, 5:36 §20399. •al- ākim in *al-Mustadrak ʿalā al-Ṣaḥīḥayn*, 1:105 §135.

(As for) his (ﷺ) statement, "Anyone who kills a non-Muslim under treaty [*mu'āhad*] will not smell the fragrance of Paradise, even though its fragrance can be smelt at a distance of forty years," its essence, dear brother, can be expressed like this: You know the gravity of the sin of killing a Muslim—its odiousness has reached the point of disbelief—and it necessitates that [the killer abides in Hell] forever. As for killing a non-Muslim citizen [*mu'āhad*], it is similarly no small matter, for the one who does it will not smell the fragrance of Paradise.¹

١٠/١٤. عَنْ خَالِدِ بْنِ الْوَلِيدِ (رضي الله عنه)، قَالَ: غَزَوْنَا مَعَ رَسُولِ اللَّهِ ﷺ غَزْوَةَ حَيْبَرَ، فَاسْرَعَ النَّاسُ فِي حَظَائِرِ يَهُودَ، فَأَمَرَنِي أَنْ أَتَأَذِي: الصَّلَاةُ... ثُمَّ قَالَ: أَيُّهَا النَّاسُ، إِنَّكُمْ قَدْ أَسْرَعْتُمْ فِي حَظَائِرِ يَهُودَ. أَلَا! لَا تَحِلُّ أَمْوَالُ الْمُعَاهِدِينَ إِلَّا بِحَقِّهَا.
رَوَاهُ أَحْمَدُ وَأَبُو دَاوُدَ وَالشَّيْبَانِيُّ وَابْنُ زُنْجَوَيْهِ.

14/10. Khālid b. al-Walīd (رضي الله عنه) said:

"We fought in the Battle of Khaybar [showing great *esprit de corps* owing to being] in the companionship of Allah's Messenger ﷺ and [as victory loomed] some people hastened to enter the compounds of the Jews. The Prophet ﷺ then ordered me to deliver the call to prayer ... then he said, 'O people! You have hastened to enter the compounds of the Jews, but beware; the property of the non-Muslim citizens is not lawful to you except that which is due.'"²

Reported by Aḥmad, Abū Dāwūd, al-Shaybānī and Ibn Zanjawayh.

١١/١٥. وَفِي رِوَايَةٍ عَنْهُ، عَنِ النَّبِيِّ ﷺ: أَلَا! وَإِنِّي أُحَرِّمُ عَلَيْكُمْ أَمْوَالَ الْمُعَاهِدِينَ

¹ •Anwar Shāh Kāshmirī, *Fayḍ al-Bārī 'alā Ṣaḥīḥ al-Bukhārī*, 4:288.

² Set forth by •Aḥmad b. Ḥanbal in *al-Musnad*, 4:89 §16862. •Abū Dāwūd in *al-Sunan: Kitāb al-aṭ'ima* [The Book of Foodstuffs], chapter: "The Unlawfulness of Eating Beasts of Prey," 3:356 §3806. •al-Shaybānī in *al-Āḥād wa al-mathānī*, 2:29 §703. •Ibn Zanjawayh in *Kitāb al-amwāl*, p. 379 §618.

بَغَيْرِ حَقِّهَا.

رَوَاهُ الطَّبْرَانِيُّ وَابْنُ زَنْجَوَيْهِ.

15/11. Khālīd b. al-Walīd رضي الله عنه also reported that the Prophet ﷺ said:
“Beware! I forbid you to take the wealth of the non-Muslim citizens unjustly.”¹

Reported by al-Ṭabarānī and Ibn Zanjawayh.

١٢/١٦. وَفِي رِوَايَةٍ عَنْهُ: حَرَّمَ رَسُولُ اللَّهِ ﷺ يَوْمَ خَيْبَرِ أَمْوَالَ الْمُعَاهِدِينَ.

رَوَاهُ الدَّارَقُطْنِيُّ.

16/12. Khālīd b. al-Walīd رضي الله عنه also said:

“On the day of Khaybar, Allah’s Messenger ﷺ forbade seizing the wealth of the non-Muslim citizens.”²

Reported by al-Dāraqūṭnī.

١٣/١٧. عَنْ عَاصِمٍ يَعْنِي ابْنَ كُثَيْبٍ عَنْ أَبِيهِ عَنْ رَجُلٍ مِنَ الْأَنْصَارِ قَالَ: خَرَجْنَا مَعَ رَسُولِ اللَّهِ ﷺ فِي سَفَرٍ، فَأَصَابَ النَّاسَ حَاجَةٌ شَدِيدَةٌ وَجَهْدٌ، وَأَصَابُوا غَنَمًا، فَاَنْتَهَبُوهَا. فَإِنَّ قُدُورَنَا لَتَغْلِي إِذْ جَاءَ رَسُولُ اللَّهِ ﷺ يَمْشِي عَلَى قَوْسِهِ، فَأَكْفَأَ قُدُورَنَا بِقَوْسِهِ، ثُمَّ جَعَلَ يُرْمِلُ اللَّحْمَ بِالتُّرَابِ. ثُمَّ قَالَ: إِنَّ النُّهْبَةَ لَيْسَتْ بِأَحَلَّ مِنَ الْمَيْتَةِ أَوْ إِنَّ الْمَيْتَةَ لَيْسَتْ بِأَحَلَّ مِنَ النُّهْبَةِ.

رَوَاهُ أَبُو دَاوُدَ وَابْنُ أَبِي حَتْمٍ.

17/13. ‘Āṣim b. Kulayb narrated on the authority of his father that one of the *Anṣār* related:

“We set out on a journey with Allah’s Messenger ﷺ. The people

¹ Set forth by •al-Ṭabarānī in *al-Muʿjam al-kabīr*, 4:111 §3828. •Ibn Zanjawayh in *Kitāb al-amwāl*, p. 380 §619.

² Set forth by •al-Dāraqūṭnī in *al-Sunan*, 4:287 §63.

were suffering hunger and were in need, so they forcibly took some goats and slaughtered them. The pots were boiling when the Prophet ﷺ came over, holding his bow, and he started turning our pans upside down with the bow and mixing the meat with the soil. Then he said, 'Eating stolen food is not less unlawful than eating carrion,' or he said: 'Carrion is not more unlawful than plunder!'"¹

Reported by Abū Dāwūd and al-Bayhaqī.

١٤/١٨. وَفِي رِوَايَةِ الْعُرْبَاضِ بْنِ سَارِيَةَ السُّلَمِيِّ قَالَ: نَزَلْنَا مَعَ النَّبِيِّ ﷺ خَيْبَرَ وَمَعَهُ مَنْ مَعَهُ مِنْ أَصْحَابِهِ. وَكَانَ صَاحِبُ خَيْبَرَ رَجُلًا مَارِدًا مُنْكَرًا فَأَقْبَلَ إِلَى النَّبِيِّ ﷺ فَقَالَ: يَا مُحَمَّدُ، أَلَكُمْ أَنْ تَذْبَحُوا حُمْرَنَا وَتَأْكُلُوا ثَمَرَنَا وَتَضْرِبُوا نِسَاءَنَا؟ فَغَضِبَ يَعْني النَّبِيُّ ﷺ وَقَالَ: يَا ابْنَ عَوْفٍ، ارْكَبْ فَرَسَكَ ثُمَّ نَادِ: أَلَا إِنَّ الْجَنَّةَ لَا تَحِلُّ إِلَّا لِمُؤْمِنٍ وَأَنْ اجْتَمِعُوا لِلصَّلَاةِ قَالَ: فَاجْتَمَعُوا ثُمَّ صَلَّى بِهِمُ النَّبِيُّ ﷺ ثُمَّ قَامَ فَقَالَ: أَيْحَسِبُ أَحَدُكُمْ مُتَكِبًا عَلَى أَرِيكَتِهِ قَدْ يَظُنُّ أَنَّ اللَّهَ لَمْ يُحَرِّمْ شَيْئًا إِلَّا مَا فِي هَذَا الْقُرْآنِ؟ أَلَا وَإِنِّي وَاللَّهِ قَدْ وَعَظْتُ وَأَمَرْتُ وَنَهَيْتُ عَنْ أَشْيَاءٍ إِنَّمَا لَيْثُ الْقُرْآنِ أَوْ أَكْثَرُ. وَإِنَّ اللَّهَ ﷻ لَمْ يُحِلَّ لَكُمْ أَنْ تَدْخُلُوا بُيُوتَ أَهْلِ الْكِتَابِ إِلَّا بِإِذْنٍ، وَلَا ضَرْبَ نِسَائِهِمْ، وَلَا أَكْلَ ثَمَارِهِمْ.

رَوَاهُ أَبُو دَاوُدَ وَابْنُ أَبِي هَاشِمٍ.

18/14. 'Irbād b. Sāriya al-Sulamī ﷺ said:

"We disembarked at Khaybar with the Prophet ﷺ and many of his Companions were with him. One of the chiefs of Khaybar who was arrogant and contentious came to the Prophet ﷺ and asked: 'Is it fair that you slaughter our donkeys, eat our fruits, and beat our women?' The Prophet ﷺ became annoyed and said: 'O Ibn 'Awf! Ride your steed and declare that Paradise is only for the believers, and that they should gather for prayer.' They all gathered, and the Prophet ﷺ

¹ Set forth by •Abū Dāwūd in *al-Sunan: Kitāb al-jihād* [The Book of Jihad], 3:66 §2705. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:61 §17789.

led them in prayer, stood up, and said: 'Does any of you recline on his couch and imagine that Allah has not forbidden anything save that which has been mentioned in the Qur'ān? Beware, by Allah, I have exhorted, issued commands and forbade various matters. They are as numerous as what is found in the Qur'ān, or more. Allah has not permitted you to enter the houses of the People of the Book without permission, or to beat their women, or to eat their fruit.'"¹

Reported by Abū Dāwūd and al-Bayhaqī.

١٥/١٩. عَنْ يَحْيَى بْنِ سَعِيدٍ، قَالَ: حَدَّثْتُ، أَنَّ أَبَا بَكْرٍ بَعَثَ جُيُوشًا إِلَى الشَّامِ فَخَرَجَ يَتَّبِعُ يَزِيدَ بْنَ أَبِي سُفْيَانَ، فَقَالَ: إِنِّي أُوصِيكَ بِعَشْرِ: لَا تَقْتُلَنَّ صَبِيًّا، وَلَا امْرَأَةً، وَلَا كَبِيرًا هَرِمًا، وَلَا تَقْطَعَنَّ شَجَرًا مُثْمِرًا، وَلَا تُحَرِّبَنَّ عَامِرًا، لَا تَعْقِرَنَّ شَاةً وَلَا بَعِيرًا إِلَّا لِمَاكَلَةٍ، وَلَا تُغْرِقَنَّ نَخْلًا، وَلَا تُحْرِقَنَّهُ، وَلَا تَغْلُلَ، وَلَا تَجْبُنَ.

رَوَاهُ مَالِكٌ وَابْنُ أَبِي شَيْبَةَ وَاللَّفْظُ لَهُ.

19/15. Yaḥyā b. Sa'īd states that he was told that while seeing off the Muslim forces for Syria, Abū Bakr al-Ṣiddīq ﷺ came to Yazīd b. Abī Sufyān and told him:

"I command you to observe ten things: Do not kill a young child, a woman or an elderly infirm man. Do not cut down fruit-bearing trees or demolish buildings. Do not slaughter a sheep or a camel except for food. Do not drown or burn date-palm trees. And do not steal from the war booty or show cowardice."²

Reported by Mālik and Ibn Abī Shayba (the wording is his).

١٦/٢٠. وَفِي رِوَايَةِ سَعِيدِ بْنِ الْمُسَيَّبِ أَنَّ أَبَا بَكْرٍ ﷺ لَمَّا بَعَثَ الْجُنُودَ نَحْوَ

¹ Set forth by •Abū Dāwūd in *al-Sunan: Kitāb al-kharāj wa al-imāra wa al-fay* [The Book of Land Tax, Leadership and the Spoils Acquired without Fighting], 3:170 §3050. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:204 §18508. •Ibn 'Abd al-Barr in *al-Tamhīd*, 1:149.

² Set forth by •Mālik in *al-Muwattaʿ*, 2:447 §965. •Ibn Abī Shayba in *al-Muṣannaf*, 6:483 §33121.

الشَّامِ يَزِيدَ بْنِ أَبِي سُفْيَانَ وَعَمْرُو بْنُ الْعَاصِ وَشَرْحِبِيلَ بْنِ حَسَنَةَ قَالَ ... ثُمَّ جَعَلَ يُوصِيهِمْ فَقَالَ ... وَلَا تُفْسِدُوا فِي الْأَرْضِ وَلَا تَعْصُوا مَا تَأْمُرُونَ ... وَلَا تُغْرِقُوا نَخْلًا وَلَا تُحْرِقْنَهَا، وَلَا تَعْمُرُوا بَيْمَةً وَلَا شَجَرَةً ثَمَرًا، وَلَا تَهْدِمُوا بَيْعَةً، وَلَا تَقْتُلُوا الْوِلْدَانَ وَلَا الشُّيُوخَ وَلَا النِّسَاءَ. وَسَتَجِدُونَ أَقْوَامًا حَبَسُوا أَنْفُسَهُمْ فِي الصَّوَامِعِ، فَدَعُوهُمْ، وَمَا حَبَسُوا أَنْفُسَهُمْ لَهُ.

رَوَاهُ مَالِكٌ وَعَبْدُ الرَّزَّاقِ وَالْبَيْهَقِيُّ وَاللَّفْظُ لَهُ.

20/16. According to Sa'īd b. al-Musayyib رضي الله عنه, Abū Bakr al-Ṣiddīq رضي الله عنه said while sending the troops to Syria under the leadership of Yazīd b. Abī Sufyān, 'Amr b. al-ʿĀṣ and Shurahbīl b. asana:

"Neither sow corruption in the land nor defy what you are commanded to do. Do not drown or burn date-palm trees. Do not kill any animal. Do not cut down a fruit-bearing tree. Do not demolish a church. And do not kill any children or old people or women. Soon you shall come upon people who have secluded themselves in cloisters; you must leave them to engage in that for which they have secluded themselves."¹

Reported by Mālik, 'Abd al-Razzāq and al-Bayhaqī (the wording is his).

وَفِي رِوَايَةٍ زَادَ الْهِنْدِيُّ: وَلَا مَرِيضًا وَلَا رَاهِبًا.

ذَكَرَهُ الْهِنْدِيُّ.

And in one version, al-Hindī added the following words:

"Do not kill a sick person or a priest."²

¹ Set forth by •Mālik in *al-Muwattaʿ*, 2:448 §966. •ʿAbd al-Razzāq in *al-Muṣannaf*, 5:199. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:85. Cited by •al-Hindī in *Kanz al-ʿummāl*, 1:296. •Ibn Qudāma in *al-Mughnī*, 8:451-452, 477 §17904.

² Cited by •al-Hindī in *Kanz al-ʿummāl*, 4:474 §11409.

Reported by al-Hindī.

١٧/٢١. وَفِي رِوَايَةٍ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ أَبُو بَكْرٍ الصَّدِّيقُ لِيَزِيدَ بْنِ أَبِي سُفْيَانَ: وَلَا تَهْدِمُوا بَيْعَةً... وَلَا تَقْتُلُوا شَيْخًا كَبِيرًا، وَلَا صَبِيًّا وَلَا صَغِيرًا وَلَا امْرَأَةً.
ذَكَرَهُ الْهِنْدِيُّ.

21/17. According to ‘Abd Allāh b. ‘Umar رَضِيَ اللَّهُ عَنْهُمَا, Abū Bakr al-Ṣiddīq رَضِيَ اللَّهُ عَنْهُ said to Yazīd b. Abī Sufyān:

“Do not demolish the cloisters, do not kill any old man or infant or a young child or woman.”¹

Reported by al-Hindī.

١٨/٢٢. قَالَ الْأَوْزَاعِيُّ: وَنَهَى أَبُو بَكْرٍ الصَّدِّيقُ أَنْ يَقْطَعَ شَجَرًا مُثْمِرًا أَوْ يُجَرِّبَ عَامِرًا، وَعَمِلَ بِذَلِكَ الْمُسْلِمُونَ بَعْدَهُ.
رَوَاهُ التِّرْمِذِيُّ.

22/18. Al-Awzā‘ī said:

“Abū Bakr al-Ṣiddīq رَضِيَ اللَّهُ عَنْهُ forbade people from cutting down fruit-bearing trees or destroying buildings [during war]—and the Muslims abided by his instructions after that.”²

Reported by al-Tirmidhī.

١٩/٢٣. وَفِي رِوَايَةٍ: كَتَبَ عُمَرُ بْنُ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ إِلَى أَبِي عُبَيْدَةَ ابْنِ الْجَرَّاحِ: وَقَالَ: وَامْنَعِ الْمُسْلِمِينَ مِنْ ظُلْمِهِمْ وَالْإِضْرَارِ بِهِمْ وَأَكْلِ أَمْوَالِهِمْ إِلَّا بِحِلِّهَا.
ذَكَرَهُ أَبُو يُوسُفَ.

23/19. In another narration: The letter ‘Umar b. al-Khaṭṭāb رَضِيَ اللَّهُ عَنْهُ wrote

¹ Ibid., 4:475 §II4II.

² Set forth by al-Tirmidhī in *al-Sunan: Kitāb al-siyar* [The Book of Military Expeditions], 4:122 §I552.

to Abū 'Ubayda b. al-Jarrāh رضي الله عنه, the Governor of Syria, contained:

"[In your capacity as Governor] see to it that you prohibit the Muslims [under your command] from oppressing them [the non-Muslim citizens], harming them or illegally eating up their wealth, except what is lawful."¹

Narrated by Abū Yūsuf.

٢٤ / ٢٠. وَفِي رِوَايَةٍ، قَالَ عَلِيٌّ رضي الله عنه: إِنَّمَا بَدَلُوا الْجِزْيَةَ لِيَتَكُونَ دِمَاؤُهُمْ كَدِمَائِنَا وَأَمْوَالُهُمْ كَأَمْوَالِنَا.
ذَكَرَهُ النَّوَوِيُّ.

24/20. In one tradition, 'Alī b. Abī Ṭālib رضي الله عنه said:

"The non-Muslim citizens pay the security tax so that their blood and property should be as inviolable as ours."²

Narrated by al-Nawawī.

TRADITIONS OF PIOUS SCHOLARS OF EARLY TIMES

• قَالَ الْإِمَامُ النَّوَوِيُّ الشَّافِعِيُّ فِي شَرْحِهِ: فَإِنَّ مَالَ الذَّمِّيِّ وَالْمُعَاهِدِ وَالْمُرْتَدِّ فِي هَذَا كَمَالِ الْمُسْلِمِ.

Imam Yaḥyā b. Sharaf al-Nawawī writes: "In this context, the wealth of the non-Muslim citizen, the non-Muslim under agreement of protection and even the apostate is certainly like that of a Muslim."³

• قَالَ الْإِمَامُ ابْنُ قُدَامَةَ الْحَنْبَلِيُّ: فَإِنَّ الْمُسْلِمَ يُقَطَّعُ بِسَرِقَةِ مَالِهِ.

Imam Ibn Qudāma al-Ḥanbalī said: "Indeed, the prescribed punishment shall be enforced if a Muslim happens

¹ Cited by •Abū Yūsuf in *al-Kharāj*, p. 141.

² Cited by •Ibn Qudāma in *al-Mughnī*, 9:181. •al-Zayla'ī in *Naṣb al-rāya*, 3:381.

³ •Al-Nawawī, *Sharḥ Ṣaḥīḥ Muslim*, 12:7.

to steal the possessions of a non-Muslim.”¹

• قَالَ الْإِمَامُ أَبُو مُحَمَّدٍ ابْنُ حَزْمٍ الظَّاهِرِيُّ: لَا خِلَافَ فِي أَنَّ الْمُسْلِمَ يُقَطَّعُ إِنْ سَرَقَ مِنْ مَالِ الذَّمِّيِّ وَالْمُسْتَأْمِنِ.

Imam Abū Muhammad Ibn Ḥazm al-Zāhirī holds: “There is no disagreement on subjecting a Muslim to the prescribed punishment if he steals the possessions of a non-Muslim citizen.”²

• قَالَ الْإِمَامُ ابْنُ رُشْدٍ الْمَالِكِيُّ: وَأَمَّا مِنْ طَرِيقِ الْقِيَاسِ فَإِنَّهُمْ اعْتَمَدُوا عَلَى إِجْمَاعِ الْمُسْلِمِينَ أَنَّ يَدَ الْمُسْلِمِ تُقَطَّعُ إِذَا سَرَقَ مِنْ مَالِ الذَّمِّيِّ.

Imam Ibn Rushd al-Mālikī said: “There is a consensus on the prescribed punishment that it shall be awarded to the Muslim who steals the possessions of a non-Muslim citizen.”³

• وَقَالَ الْإِمَامُ الْحَصَكْفِيُّ الْحَنْفِيُّ: وَيَضْمَنُ الْمُسْلِمُ قِيَمَةَ خَمْرِهِ وَخِنْزِيرِهِ إِذَا أَتْلَفَهُ.

Imam al-Ḥaṣkafī al-Hanafī has observed: “The Muslim who destroys his [the Christian’s] wine and pork is legally responsible to pay for it.”⁴

• وَذَكَرَ الْقُرَافِيُّ الْمَالِكِيُّ: وَكَذَلِكَ حَكَى ابْنُ حَزْمٍ فِي «مَرَائِبِ الْإِجْمَاعِ» لَهُ: أَنَّ مَنْ كَانَ فِي الذِّمَّةِ وَجَاءَ أَهْلُ الْحَرْبِ إِلَى بِلَادِنَا يَقْصِدُونَهُ، وَجَبَ عَلَيْنَا أَنْ نَخْرُجَ لِقِتَالِهِمْ بِالْكُرَاعِ وَالسَّلَاحِ، وَنَمُوتُ دُونَ ذَلِكَ.

Imam al-Qurāfī al-Mālikī writes that Ibn Ḥazm has

¹ • Ibn Qudāma, *al-Mughnī*, 9:112.

² • Ibn Ḥazm, *al-Muḥallā*, 10:351.

³ • Ibn Rushd al-Mālikī, *Bidāyat al-mujtahid*, 2:299.

⁴ • Al-Ḥaṣkafī, *al-Durr al-mukhtār*, 2:223. • Ibn ‘Ābidīn al-Shāmī, *Radd al-muṭtār*, 3:273.

described in his book *Marātib al-ijmāʿ*:

"Indeed for the *dhimmīs* (non-Muslim citizens), it is binding on our Islamic state that, for the protection of non-Muslim citizens, we wage war with military might against those combatants who aggress against them, even though our troops may die (in fighting against the aggressors)".¹

وَذَكَرَ الْقُرَافِيُّ الْمَالِكِيُّ أَيْضًا: إِنَّ عَقْدَ الذِّمَّةِ لِمَا كَانَ عَقْدًا عَظِيمًا، فَيُوجِبُ عَلَيْنَا حُقُوقًا لَهُمْ مِنْهَا مَا حَكَى ابْنُ حَزْمٍ فِي «مَرَائِبِ الْإِجْمَاعِ». وَنَجْعَلُهُمْ فِي جَوَارِنَا وَفِي حَقِّ رَبَّنَا وَفِي ذِمَّةِ اللَّهِ تَعَالَى وَذِمَّةِ رَسُولِ اللَّهِ ﷺ وَذِمَّةِ دِينِ الْإِسْلَامِ. وَالَّذِي إِجْمَاعُ الْأُمَّةِ عَلَيْهِ أَنَّ مَنْ كَانَ فِي الذِّمَّةِ وَجَاءَ أَهْلُ الْحَرْبِ إِلَى بِلَادِنَا يَقْصِدُونَهُ، وَجَبَ عَلَيْنَا أَنْ نَخْرُجَ لِقِتَالِهِمْ بِالْكُرَاعِ وَالسَّلَاحِ، وَتَمُوتَ دُونَ ذَلِكَ صَوْنًا لِمَنْ هُوَ فِي ذِمَّةِ اللَّهِ تَعَالَى وَذِمَّةِ رَسُولِهِ ﷺ. فَإِنَّ تَسْلِيمَهُ دُونَ ذَلِكَ إِهْمَالٌ لِعَقْدِ الذِّمَّةِ.

وَمِنْهَا أَنَّ مَنْ اعْتَدَى عَلَيْهِمْ وَلَوْ بِكَلِمَةٍ سَوْءٍ أَوْ غِيْبَةٍ فِي عَرْضٍ أَحَدِهِمْ أَوْ نَوْعٍ مِنْ أَنْوَاعِ الْأَذْيَةِ أَوْ أَعَانَ عَلَى ذَلِكَ، فَقَدْ ضَيَّعَ ذِمَّةَ اللَّهِ تَعَالَى وَذِمَّةَ رَسُولِهِ.

Imam al-Qurāfi al-Mālikī has also demonstrated:

The *dhimma* contract concluded with the non-Muslims is a great treaty that establishes certain rights they have upon us. Some of these rights are those which Ibn Ḥazm has described in his book *Marātib al-ijmāʿ*. Hence, we keep the non-Muslim citizens protected in our proximity under the bountiful obligation of their rights prescribed by our Lord,

¹ • al-Qurāfi, *al-Furūq*, 3:29.

Almighty Allah, the Messenger of God ﷺ and the religion of Islam.

There exists among *Umma* a consensus on it. Indeed, when the *dhimmīs* (non-Muslim citizens) are there and the aggressing combatants intrude into the boundaries of our state with the intention to commit aggression against them, it is incumbent upon the Islamic state to fight (against the aggressors) with troops and military arsenal, even if (while fighting, the soldiers) lay down their lives. (The state is) to protect the Non-Muslim citizens, for they are under the bountiful obligation of Allah and His Messenger. Handing them over to the aggressing combatants without fighting a defensive war will be in sheer negligence of and indifference to the *dhimma* contract.

One of the rights of the Non-Muslim citizens is also that if an individual aggresses against the Non-Muslim citizens—even if defaming someone by an evil word, through backbiting, afflicting with torture or supporting someone against them—he will render the bountiful obligation of Allah and His Messenger ﷺ null and void.¹

The aforementioned sayings of the jurists prove that it is obligatory for all Muslims to protect the honour and wealth of non-Muslim citizens.

¹ •al-Qurāfi, *al-Furūq*, 3:29.